



Grizzly Bears And Internal Investigations

September 14, 2011 by [Keith Paul Bishop](#)

The *Los Angeles Times* recently published this [story](#) about an Idaho man who shot and killed a grizzly bear on his property where his children were playing. Since the grizzly bear is a threatened species, the U.S. Attorney filed an information charging the man with a violation of the Endangered Species Act of 1975. The shooter faced a sentence of up to one year in prison and a maximum fine of \$50,000. Most stories have focused on the ensuing community backlash. Today, I want to focus on the fact that the defendant reported the shooting to authorities. By charging the man, the U.S. Attorney was unintentionally sending the message that if you shoot a grizzly bear, it's better to bury it than report it.

The same principle seems to be at work in the case of the Securities and Exchange Commission. As I previously reported in this [post](#), one recent study by Assistant Professor [Rebecca Files](#) at the University of Texas at Dallas found that company-initiated internal investigations “significantly increase the likelihood of an SEC enforcement action.” In fact, she found that the risk of an SEC enforcement action was more than doubled. However, she also found that self-investigation “decrease firm-level penalties associated with a sanction.” As I pointed out in “[The Calculus of Cooperation](#)”, the SEC’s reward for cooperation must be substantial in order to outweigh the significant costs of an internal investigation and the increased risk of enforcement.

It seems that [Wendy J. Olson](#), the U.S. Attorney for the District of Idaho, belatedly reached the same conclusion. In this [statement](#), she announced that the dismissal of the criminal charge in favor of a fine of \$1,000. She said that she was doing so “based in part on Mr. Hill’s [the defendant’s] prompt notification of his actions to Idaho Fish & Game officials.”

This story also reminds me of reading Lewis and Clark’s journal accounts of their encounters with the grizzly bear, or *ursus arctos horribilis* (terrible brown bear). For example, Lewis’ entry on May 5, 1805 describes one such encounter as follows (original spelling and pronunciation):

Capt. Clark and Drewyer killed the largest brown bear this evening which we have yet seen. it was a most tremendous looking anamal, and extreemly hard to kill notwithstanding he had five balls through his lungs and five others in various parts he swam more than half the distance across the river to a sandbar & it was at least twenty minutes before he died; he did not attempt to attack, but fled and made the most tremendous roaring from the moment he was shot.

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